



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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TECHNICAL STAFF REPORT

*Petition Accepted on July 31, 2007
Planning Board Meeting of November 1, 200 (Advisory Authority Rules)
Zoning Board Hearing to be scheduled*

Case No./Petitioner: ZB 1069M – Ken Clements

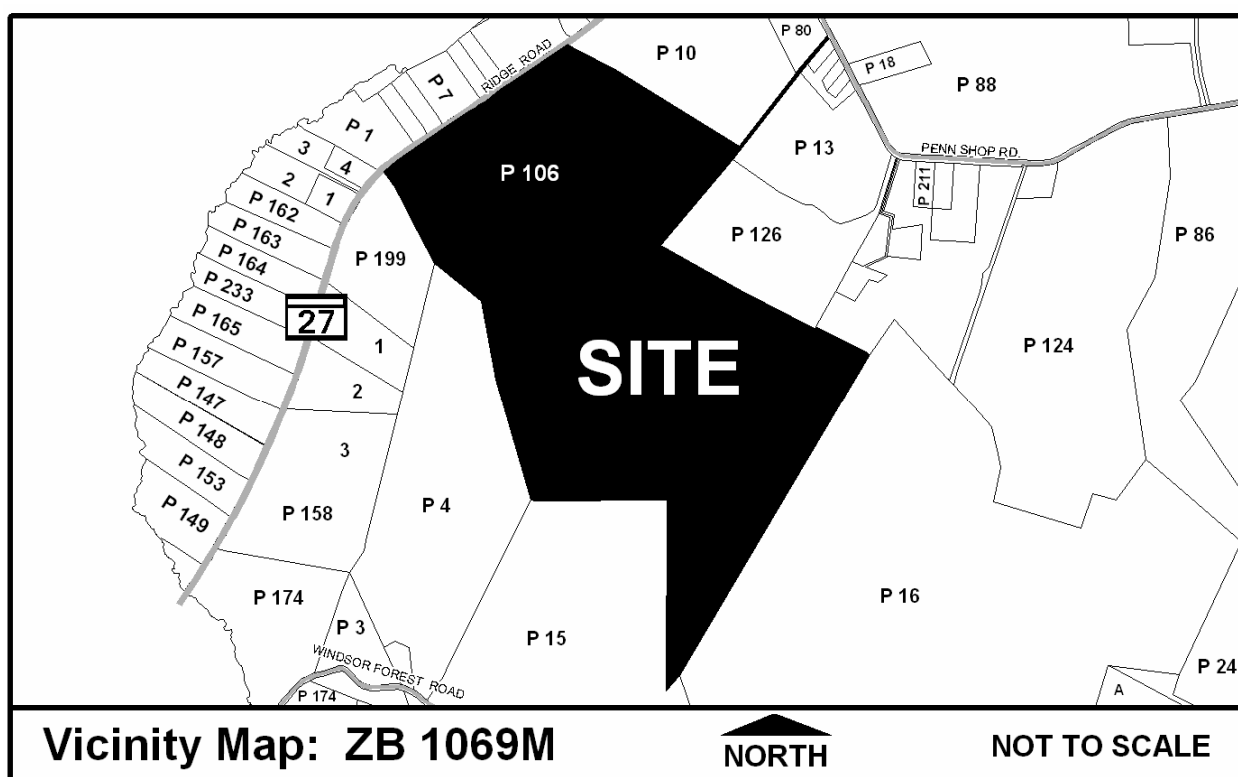
Location: Fourth Election District
East side of MD 27 south of I-70 and approximately 170 feet south of Penn Shop Road
Tax Map 6, Grid 2, Parcel 106, 951 Ridge Road (the "Property").

Area of Site: 141.5 acres (the "Property")

Area of Proposed Use: 14.102 acres including 60' right-of-way (the "Site")

Current Zoning of Site: BR (Business: Rural) Proposed Zoning of Site: BR (Business: Rural)

Department of Planning and Zoning Recommendation:
PARTIAL APPROVAL AND APPROVAL WITH MODIFICATIONS



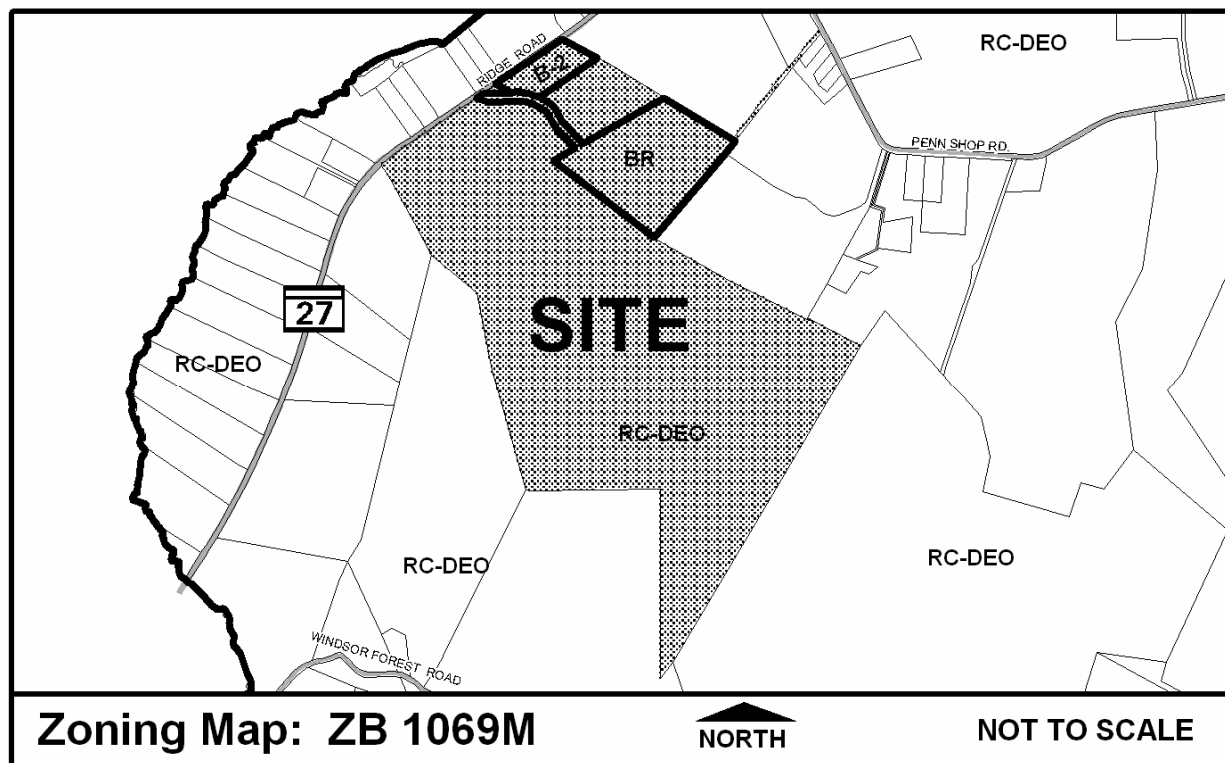
I. DESCRIPTION OF PROPOSAL

- **The Site was rezoned from RC-DEO (Rural Conservation) District to the BR (Business: Rural) District with ZB Case 1063M in accordance with a Preliminary Development Plan depicting a 13.0 acre site for use as sawmill as required by Section 117.1.**

The BR District is a floating zone established to allow the development of businesses which will support the agricultural industry, serve the needs of the rural residential and farming communities, and provide opportunity for a combination of business and industrial uses not otherwise permitted in the rural areas of the County. An evaluation of a Preliminary Development Plan for a particular site is conducted based on the criteria in the district Requirements in Section 117.1.B. and the Procedure for Creation of a BR District in Section 117.1.G. There is no evaluation of mistake or change for such a petition.

- **The current proposal is a request to amend the permitted uses for the BR zoning granted in ZB 1063M to add uses in addition to the sawmill use.**

In ZB 1063M, the requested uses for the proposed BR District were for a sawmill and other BR uses such as landscaping, equipment storage and contractor's office, etc. The Decision and Order in ZB 1063M granted the rezoning for the sawmill use and permitted accessory uses to that use, as provided on Petitioner's Preliminary Development Plan.



- **The Petitioner states that the Decision and Order in ZB 1063M only specified approval of the existing sawmill use and permitted accessory uses to that use. The current petition is a request to add the uses of landscaping, equipment storage and contractor's office to the BR zoning district (see petition Item 7).**

Section 117.1.C.8 permits, "Contractor's office and indoor or outdoor storage facility, provided the maximum lot size for such use shall be ten acres. The types of contractors permitted shall include the following: carpentry, construction, electrical, excavating, exterminating, heating/air conditioning, home improvement, landscaping, masonry, painting, paving, plumbing, roofing, septic system installation and maintenance, snow removal, well drilling and similar uses".

The proposed uses of landscaping contractor and equipment storage (indoor or outdoor storage facility) are permitted uses in the BR zoning district subject to the noted lot size limitation. The petition lists "landscaping" as a proposed use; this term is interpreted to mean "landscape contractor" for this report since there is no "landscaping" use listed in the BR district. If the proposed contractor's office is intended as a separate use from the landscaping contractor use, it would be a permitted use if it is included in the above list or is a similar use. The Petitioner shall specify whether a separate contractor use is proposed in addition to the landscaping contractor use and the type of contractor use proposed.

It was noted in the Technical Staff Report for ZB 1063M that the Petitioner should clarify the nature of the uses which were proposed in addition to the sawmill. Specific areas for the other uses in addition to the sawmill use were not delineated on the Preliminary Development Plan. The Decision and Order in ZB 1063M granted the rezoning for the sawmill use and permitted accessory uses to that use, as provided on Petitioner's Preliminary Development Plan.

- **The Revised Preliminary Development Plan dated July 31, 2007 (the "Revised PDP") includes a list entitled Preliminary Development Criteria: Permitted Uses (the "Preliminary Development Criteria" or "Criteria"). This Criteria lists sawmill operations; topsoil and mulch manufacturing; processing and storage of agricultural products; contractor's office; and outdoor storage facility.**

This Criteria is a more extensive list than the proposed uses of landscaping, equipment storage and contractor's office enumerated in the petition. The Criteria, as part of the Revised PDP, is assumed to be the correct and inclusive list of intended uses which takes precedence over the uses listed in the petition. Mulch manufacture and processing and storage of agricultural products are uses permitted as a matter of right with no lot size restriction (Sections 117.1.C.22 & C.26). Topsoil manufacture is not a separately listed permitted use in the BR District; however, the use is considered to be a permitted use as processing and storage of an agricultural product.

- **The Petitioner states that the proposed uses of contractor offices and equipment storage will be limited to an area of less than ten acres and explains that further evidence will be presented at the hearing on this matter.**

The Revised PDP depicts a 3.42 acre area in the northeast portion of the Site designated as the storage area for topsoil and mulch; a 0.77 acre area in the central eastern portion of the Site designated as a storage area for agricultural products; a 2.06 acre area in the southeast portion of the Site designated for equipment storage; and a 6.79 acre area in the westerly portion of the Site which would continue to be occupied by the approved sawmill operation. The combined acreage of areas devoted to the storage uses is 6.25 acres.

As previously noted, contractor's offices and indoor or outdoor storage facilities are limited to a maximum lot size of ten acres. Section 103.A.90 defines Lot Size, Maximum as "The largest lot area allowed under the bulk requirements of the applicable zoning district, calculated based on the gross area of the lot. The pipe stem area of pipe stem lots shall not be included for purposes of calculating the maximum lot size".

Lot or Parcel is defined in Section 103.A.88 as "A piece of land described in a Final Plat or Deed and recorded in the Land Records of Howard County in accordance with the laws and regulations in effect at the time of recordation".

On the Revised PDP, the acreage designated for storage uses is less than ten acres. No specific area or acreage is identified on the Revised PDP for the contractor's office. Since the Zoning Regulations specifically limit the area for contractor's offices and indoor or outdoor storage facilities to a maximum of ten acres, and "lot" is a term specifically defined by the Zoning Regulations, the area to be used for the contractor's office and indoor or outdoor storage facility must be clearly delineated on the Revised PDP and must meet the provisions of Section 103.A.88.

II. BACKGROUND INFORMATION

A. Site Description

- **The Property is an irregularly shaped parcel of approximately 141.5 acres (according to the petition) located on the east side of MD 27 south of I-70 and approximately 170 feet south of Penn Shop Road.**

The total acreage of the BR zoning district is shown as 14.102 acres which includes the 60 foot wide right-of-way for driveway access to MD 27 depicted on the Plan.

- **Access to the Property is from MD 27 via a paved driveway approximately 600 feet from the northwestern corner of the Site.**

To the west of this driveway entrance is a 470 foot by 230 foot portion of the 141.5 acre Property which is zoned B-2. This area is in use as a sales area for outdoor furniture such as picnic tables and sheds.

To the east of the driveway entrance is a pond and a large open field for grazing cattle. A thick stand of woods borders the eastern side of the driveway. The driveway extends to the north and forms a loop. To the east of the loop is a residence.

The driveway slopes uphill on the west side of the loop and leads to the sawmill area. A large, open-sided, roofed pole barn structure contains equipment and machinery used in the sawmill operation. Beyond this building to the north is a large open area of stockpiled wood. On the east side of the extended driveway is an office trailer and several metal storage buildings.

To the northeast are open fields used for grazing cattle. Beyond the fields is a paved road leading to a picnic pavilion used for private parties and barbeques (approved in Board of Appeals case 81-39E and with Site Development Plan 84-74). A residence is also located in this portion of the Property.

- **The Property is comprised of open, rolling fields primarily in agricultural use and mature stands of trees and wooded buffers. Several residences are located on the Property and mature woods are located throughout the Property as well as along the property line boundaries where they create a dense buffer from adjacent properties. Large portions of the Property along the western and southeastern boundaries are encumbered with Preservation Easements.**

The closest off-site structure is more than ¼ mile from any structure on the 141.5 acre Property.

B. Vicinal Properties

- **The Property is located within an area primarily characterized by large rural residential lots. An area of B-2 zoning is located within the northern portion of the Property.**

Parcel 10, the abutting property to the north is zoned RC-DEO and is improved with a single-family detached dwelling and various outbuildings.

Parcel 126 abuts the south property line of the Site. This property was approved for use as a dog kennel in BA 82-43 E, 85-97E, and 92-42 E&V.

Parcels to the north are generally zoned RC-DEO and are improved with single-family detached dwellings.

Parcels to the west across MD 27 are zoned RC-DEO and are primarily improved with single-family detached residences and various outbuildings. Parcel 1 across from the southwest corner of the Property is zoned RC-DEO and is the site of Lu and Joe's Inc. which was approved as a nonconforming use for a bar, restaurant and carryout in BA 90-62N.

Parcel 199 which adjoins part of the southwest property line of the Property beginning at MD 27 is the site of Snell's Nursery and Landscaping which was approved for this use in BA 87-10E and 95-06E&V.

C. Roads

- **MD 27 has two travel lanes within a 40 foot wide right-of-way.**
- **Visibility from the existing driveway on MD 27 is adequate.**

The State Highway Administration has commented that the Property has adequate sight distance from MD 27 to support the development.

- **According to data from the Department of Public Works, the traffic volume on MD 27, 0.10 miles south of Penn Shop Road was 19,625 AADT (annual average daily traffic count) for 2005.**

D. Water and Sewer Service

The Property is not within the Metropolitan District and is within the No Planned Service Area according to the Howard County Geographic Information System maps.

The Property is currently served by private water and septic facilities.

E. General Plan

The Property is designated Rural Conservation on the Policies Map 2000-2020 of the 2000 General Plan.

MD 27 is depicted as a Minor Arterial on the Transportation Map 2000-2020 of the 2000 General Plan.

F. Agency Comments

See attached comments on the proposal from the following agencies:

1. State Highway Administration
2. Bureau of Environmental Health
3. Department of Fire and Rescue

The following agency had no objections to the proposal:

1. Department of Inspections, Licenses and Permits

III. ZONING HISTORY

- A. Case No. BA 81-39E
Petitioner: Donnie and Benjamin Clements
Request: Special Exception to operate a country club in the R District
Action: Granted, January 18, 1982 with conditions.

In a Memorandum and Order issued by the Circuit Court for Howard County on February 9, 1983, all conditions were removed in BA 81-39E except the condition that all lighting on the subject property be defused downward and inward.

- B. Case No. ZB 1063M
Petitioner: Ken Clements
Request: Zoning Map amendment to rezone 13.0 acres from RC-DEO to BR for a sawmill and other uses.
Action: Granted for the existing sawmill use and permitted accessory uses to that use, as provided on Petitioner's Preliminary Development Plan, September 5, 2006.

C. **Subject Property and Adjacent Properties**

- **The Property was residentially zoned by the 1961 Comprehensive Zoning Plan.**

The 1961 Land Use Map indicates that the Property and all surrounding properties were residentially zoned. The 1961 Land Use map depicts a lumber mill use on the Property as well as several barns.

- **In the 1977 Comprehensive Zoning Plan, the Property remained residentially zoned.**

In 1977, the Property and all surrounding properties were zoned R.

- **In the 1985 Comprehensive Zoning Plan, the Property and adjacent properties remained as zoned in 1977.**

- **The Property was zoned RC-DEO by the 1993 Comprehensive Zoning Plan for western Howard County.**

All other adjacent residentially zoned properties were also zoned RC-DEO. The Property remained zoned RC-DEO by the 2004 Comprehensive Zoning Plan. (The 2004 Howard County address map carries the notation "Collegiate Barbequer's Sawmill Farm" for the Property.) A portion of the northwest area of the Property measuring 470 feet by 230 feet was rezoned B-2 in Zoning Board case 300.

IV. EVALUATIONS AND CONCLUSIONS

A. Evaluation of petition according to Section 117.1.B. of the Zoning Regulations (Requirements for Business: Rural):

1. The Site was previously rezoned from RC-DEO to BR and the current petition is to amend the permitted uses for the BR zoning granted in ZB 1063M to add uses in addition to the sawmill use. The petition complies with Section 117.1.B.1.
2. The Property has approximately 150 feet of frontage on MD 27, a Minor Arterial. According to comments from the State Highway Administration, the Site has safe access to MD 27. A 60 foot wide right-of-way with direct access to MD 27 is proposed as part of the BR rezoning. The petition complies with Section 117.1.B.2. that the BR District has safe road access and at least 60 feet of frontage on a collector or arterial highway.
3. A BR District for the sawmill use was previously approved at the location and the proposed additional uses will be compatible with existing land uses in the vicinity of the Site. The additional uses are compatible with the surrounding area which is rural residential and agricultural in nature and are compatible with the purpose of agricultural business zoning. The structures on the Property are well buffered by distance and thick stands of woods on the perimeters of the Property, and are not visible from adjacent roadways or properties. The proposed additional uses are appropriate given the secluded location of structures on the Site and the small portion of the Property will be used for the BR District.

B. Evaluation of petition according to Section 117.1.G. of the Zoning Regulations (Procedure for Creation of a BR District):

Section 117.1.G.1.:

The BR District was previously established on the Site and it was determined in the prior Zoning Board case that the petition complied with this section. No changes to this section are proposed in the Revised PDP.

Section 117.1.G.2.:

1. The Preliminary Development Criteria for the Site lists sawmill operations; topsoil and mulch manufacturing; processing and storage of agricultural products; contractor's office; and outdoor storage facility. The sawmill use was previously approved for the Site. Mulch manufacture and processing and storage of agricultural products are uses permitted as a matter of right. Contractor's offices and indoor or outdoor storage facilities are uses permitted as a matter of right provided the maximum lot size is ten acres. Contractor's offices and indoor or outdoor storage facilities are limited to a maximum lot size of ten acres; therefore, the area to be used for the contractor's office and indoor or outdoor storage facility must be clearly delineated on the Preliminary Development Plan and must meet the provisions of Section 103.A.88.

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2. The sawmill use was previously approved for the Site.
3. This section is not applicable.

Section 117.1.G.3:

1. The BR District was previously established on the Site and it was determined in ZB 1063M that the petition complied with this section. The proposed additional uses in the BR District will accomplish the purposes of the BR District. The approved sawmill use as well as the proposed additional uses will support the surrounding agricultural and farming community; and the petition complies with this section.
2. The petition meets the criteria listed in Subsection B of this Section.
3. Business related traffic would have direct access to MD 27. The road providing access to the Site is appropriate for serving the business related traffic.
4. Visibility from the driveway appears adequate, and the State Highway Administration has commented that sight distance is adequate.
5. The densely wooded buffers along the Property's boundaries provide an adequate buffer from land uses in the vicinity. In addition, the secluded location of the sawmill and the distance of more than ¼ mile between any structures on the Property and off-site structures far exceeds the requirement for adequate buffering.

V. RECOMMENDATION:
PARTIAL APPROVAL AND APPROVAL WITH MODIFICATIONS

For the reasons noted above, the Department of Planning and Zoning recommends that the request to amend the permitted uses for the BR Zoning District to include in addition to the previously approved sawmill use, mulch manufacturing; and processing and storage of agricultural products; be **APPROVED** and the request to add the uses of contractor's office; and outdoor storage facility be **DENIED** at this time.

However, if the petition would meet the conditions that the area to be used for the contractor's office(s) and indoor or outdoor storage facility be less than ten acres, be clearly delineated on the Preliminary Development Plan and meet the provisions of Section 103.A.88., the recommendation would be for **APPROVAL**.


Marsha McLaughlin, Director

10/16/07

Date